



## ACTING IN THE TAXPAYERS' BEST INTEREST

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*[Publisher's Note: As part of an ongoing effort to bring original, thoughtful commentary to you here at the FlashReport, I am pleased to present this column from Board of Equalization Member Michelle Steel. - Flash]*

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Despite being an elected body, the Board of Equalization (BOE) lacks the ability to use discretion in certain cases where a strict application of the law does an injustice to a taxpayer. On November 15, the BOE voted unanimously to sponsor two of my legislative proposals that will allow more flexibility for BOE members to act in the taxpayers' best interest.

I recently wrote about the first proposal on [Fox and Hounds Daily](#). That proposal is meant to reverse a law passed in 1991 that made the interest charged on tax liabilities higher than the interest paid on refunds. At our current rates, if taxpayers file their taxes late, they must pay 6 percent interest to the BOE. If taxpayers accidentally overpay their taxes, they get zero interest on their refunds.

There is no justification for this discrepancy, that's why the BOE has unanimously sponsored legislation to correct it 12 times in the last 20 years. Each time, the legislation has been killed in committee, except for once, when it was vetoed by a Republican governor. I'm hopeful – though history gives me no reason to be – that this inequity will be corrected in the next legislative session.

My second proposal has also been through the legislative paper shredder a couple of times. I sponsored it first in 2010, and then again this year with the unanimous support of my fellow BOE members. On the 15th, my colleagues agreed to sponsor the proposal once again.

Each month, BOE members meet to hear tax appeals relating to nearly every facet of California's complicated tax code. Sometimes the outcome of those appeals is so outrageous that it calls for legislative action.

In 2009, a taxpayer who had a good payment history came before the board because he had recently failed to remit his sales taxes on time. As it turns out,

the taxpayer's bookkeeper had been embezzling the funds marked for tax payment. When the taxpayer came before the board, he wasn't looking for a way out of paying the taxes, he was merely seeking relief from the substantial interest that accumulated as a result of the bookkeeper's crimes.

All five BOE members expressed their sympathy with the taxpayer, but we simply did not have the authority to do anything about it.

This proposal will allow the BOE to use its discretion to relieve all or part of the interest imposed on a late payment in the rare cases that a taxpayer is the victim of a crime or another extraordinary circumstance – such as death or verifiable disaster – out of his or her control.

The proposal is narrowly focused, and applies only when certain conditions are met: First, the taxpayer must be relieved of all applicable penalties. Next, the tax liability has to be paid. Last, the taxpayer has to request an oral hearing before the members of the board. Once before the board, the five members will have an opportunity to review evidence, and the limited flexibility needed to make a fair decision.

Neither of these proposals will fix California's projected \$13 billion deficit. They won't lower our state's punitive tax rates, reform unfunded entitlements, or cut spending to bring it in line with revenue. But, they will allow a small amount of liberty for elected officials to serve their constituents better.

California's taxpayers are forced to jump over so many hurdles while running a business in this state that they deserve an honorary Olympic medal. They also deserve basic fairness when they accidentally miss a hurdle or when they are thrown into one by circumstances out of their control. All we ask for is the limited flexibility to provide it.